

**REMARKS****AMENDMENTS TO THE SPECIFICATION**

Support for the amendments to the specification may be found in the instant application as originally filed. No new matter has been added.

The paragraph beginning on page 7, line 23 as well as Table I was amended to delete the "XXXXXX" term and to substitute the same with the ATCC Deposit No., PTA-5853, for the HGPRBMY74 polynucleotide. Applicants respectfully point out to the Examiner that ATCC Deposit No. PTA-5853 was deposited with the ATCC prior to the filing date of the instant specification (e.g., deposited on March 10, 2004, while the instant specification was filed on March 12, 2004); that the HGPRBMY74 clone, which is also referred to as HM74B in the specification (see page 7 and Table I), is explicitly referenced in the "Identification Reference by Depositor" section of the enclosed ATCC Deposit receipt; that the docket number of the instant specification, D0323, is explicitly disclosed at the bottom of the enclosed ATCC Deposit receipt in the "Ref: Docket or Case No:" section; and that the deposit date referenced in the instant specification in the paragraph beginning on page 7, line 23 as well as Table I is, in fact the same as the official deposit date on the enclosed ATCC Deposit receipt (e.g., March 10<sup>th</sup>, 2004). In accordance with 37 CFR 1.804 (MPEP 2406.01), and in view of *In re Lundak*, 773 F.2d 1216 227 USPQ 90 (Fed. Cir. 1985), Applicants believe no new matter has been added.

**AMENDMENTS TO THE CLAIMS:**

Claims 1 to 20 were cancelled.

New Claims 21 to 36 were added.

Claims 21 to 36 are pending.

Support for the newly added Claims 21 to 36 may be found in the specification as originally filed. Specifically, support for new Claims 21 thru 25, and 33 to 36 may be found in original Claims 1 to 2, 5, and 14, and 18, Figures 1A-B, pages 9, 35 to 39 of the specification, Table I, and throughout the application as original filed. No new matter has been added.

Support for new Claims 26 thru 28 may be found in original Claims 3 to 4, 8 to 9, and 16 to 17, pages 7, 128 to 142, and throughout the application as original filed. No new matter has been added.

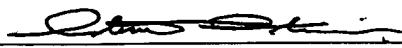
Support for new Claims 29 and 30 may be found on pages 98, 125 to 128, 132, 139, and Example 26, of the specification, and throughout the application as original filed. No new matter has been added.

Support for new Claims 31 and 32 in Claim 21, on pages 55 to 59 of the specification, and throughout the application as original filed. No new matter has been added.

If any fee is due in connection herewith not already accounted for, please charge such fee to Deposit Account No. 19-3880 of the undersigned. Furthermore, if any extension of time not already accounted for is required, such extension is hereby petitioned for, and it is requested that any fee due for said extension be charged to the above-stated Deposit Account.

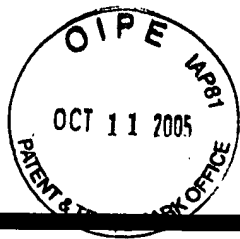
Respectfully submitted,

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Date: October 11, 2005

# ATCC



D0323 NP  
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**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

To: (Name and Address of Depositor or Attorney)

Bristol-Myers Squibb Company  
Attn: Gabriel Mintier  
311 Pennington - Rocky Hill Road  
Pennington, NJ 08534

**RECEIVED**  
**BMS PATENT LAW**  
**ALREADY ON DOCKET**

APR 22 2004

Deposited on Behalf of: Bristol-Myers Squibb Company

Docketed Item ATCC  
Due Date 7/19/04  
Attorney SDA

Identification Reference by Depositor:

Patent Deposit Designation

Plasmid: HM74B/pEF DEST 51

PTA-5853

The deposit was accompanied by:    a scientific description    a proposed taxonomic description indicated above.

The deposit was received March 10, 2004 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:   X   We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested March 17, 2004. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: March 30, 2004

cc: Stephen D'amico

Ref: Docket or Case No.: D0323